

Attorney Docket No. 82274.472023
Customer No. 24347

AMENDMENT AND RESPONSE
AFTER FINAL REJECTION
SERIAL NO. 09/753,944

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REMARKS

Applicant has considered the Final Office Action mailed November 14, 2003; the Advisory Action mailed January 28, 2004; and the Examiner's comments from an interview with Examiner on April 27, 2004. In the application as amended herein, Claims 49-73 are currently pending. Amendments were previously made in a Response and Amendment filed on January 14, 2004. Since that Amendment, Claims 49, 52, 53, 55, 58, 62, 63, and 68 have been further amended. Additionally, new claims 69-73 have been added. In light of the above amendments and the below comments, Applicant earnestly requests allowance of the claims.

PREVIOUS CLAIM REJECTIONS UNDER 35 U.S.C. § 112

In the Final Office Action mailed November 14, 2003, the Examiner rejected Claim 52 under 35 U.S.C. § 112, first and second paragraphs. Applicant previously amended Claim 52; and, accordingly requests removal of this rejection.

PREVIOUS CLAIMS REJECTIONS UNDER 35 U.S.C. § 102

In the Final Office Action mailed November 14, 2003 Examiner rejected Claims 49, 51, 52, and 54-68 under 35 U.S.C. § 102(b), alleging anticipation by Streiff et al. The Applicant respectfully disagrees, but has nonetheless previously amended and currently amends the application for further clarification. In the Application as amended, the Streiff et al. reference fails to anticipate (expressly or inherently) at least the following elements:

1. a "[wing]...configured to shed a vortex at an edge of the [end] of the [wing]",
2. "the [nozzle] is located adjacent the edge of the [end] of the [wing]", and
3. "the [nozzle] is located adjacent the [edge] of the second end of the wing"

The first three of these element appear in independent Claims 49, 58, and 68. With regards to the first of the above elements, Examiner has previously argued that Streiff et al.'s deflectors disclose a structure configured to create a vortex - the Examiner indicating that the Streiff et al.'s deflectors are "capable" of creating a vortex. "Capability" to do something does not imply that something is specifically "configured" for a specific purpose. Streiff's et al. describes a structure that is configured to create turbulent flow (e.g., an agitated flow) - not a structure configured to create a vortex (e.g., an organized flow). One of the reasons for employing a structure that is configured to create a vortex is to reduce such turbulence. By disclosing a structure configured to create turbulent flow, Streiff et al. teaches away from a concept of a structure that is configured to create something other than turbulent flow - namely a vortex.

With regards to the second of the above elements, Examiner has previously argued that one could use Streiff et al.'s configuration (e.g., FIG. 9) reversing the designed flow direction Z to the opposite of that disclosed, thereby allowing the dispensing tubes 21 on a downstream end of the deflector 30. Streiff et al.'s provides no suggestion that such a

configuration could exist. Rather, this suggested configuration is contrary to Streiff et al.'s specification and associated figures. Streiff et al. consistently shows the deflectors 30 (with associated dispensing tubes 21) as pointing in relation to flow Z - tubes 21 being consistently shown as upstream of the deflectors 30. For example, Figures 1b and 10 show a cross section of the flow with the specification stating: "projection FZ of the two deflectors in the flow direction Z" (Column 3, lines 6-8) and "their total area FZ which is projected in the Z direction" (Column 4, lines 28-31). Additionally, Figures 1A, 3C, 3D, 5, 7, 8A, 8B, 9A, 9B, 11D, and 12 show a flow Z and a configuration with the tubes 21 upstream of the deflectors 30. Examiner's suggested configuration is not described, explicitly or inherently, within Streiff et al. or any other reference.

With regards to the third of the above elements, and assuming *arguendo* that (1) the structure in the Streiff et al. reference could create a vortex and (2) that flow could occur in the opposite direction of that disclosed in Streiff et al., the Applicant still submits that Streiff et. al does not disclose discharging the "mixture into the vortex in the gas stream at a point where the vortex is shed". For example, building on the Examiner's argument that Streiff et al.'s FIGURE 9 could be utilized with a flow opposite of that disclosed (allowing the nozzle on the downstream end of the deflector), how could the nozzle discharge the mixture at a point where the alleged vortex is created? Applicant respectfully submits that it can not; and, as such, Streiff et al. does not anticipate the claimed invention.

For the reasons set forth above, Applicant believes that the combination of elements as recited in the amended independent Claims 49, 58, and 68 are not disclosed or taught (expressly or inherently) by any of the cited references, alone or in combination. As such, these claims are believed to be allowable; and, as claims 51-52, 54-57, and 59-67 are dependent thereon, they too, are believed to be allowable.

PREVIOUS CLAIM REJECTION UNDER 35 U.S.C. § 103

Examiner previously rejected Claim 53, alleging obviousness over Streiff et al. in view of Althaus et al. As Claim 49 is believed to be allowable, dependent Claim 53 should also be allowable.

ALLOWABLE SUBJECT MATTER

Claim 50 was previously found to be allowable subject matter, provided that it would be rewritten in independent format. In the amendment of January 14, 2004, Claim 50 was rewritten in independent format. Therefore Claim 50 should be allowed.

NEW CLAIMS

Applicant submits with this Request for Continued Application new claims 69-73, which include among other elements a "vortex generator...configured to shed a predefined, ordered vortex". This element in combination with other elements is believed by Applicant to not be disclosed or taught (expressly or inherently) by any of the cited references, alone or in

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combination. As such, Applicant earnestly seeks allowance of
these new claims.

CONCLUSION

Applicant respectfully submits that this Application is in condition for allowance, and Applicant earnestly seeks such allowance of all claims currently pending in the application for the reasons stated herein and further requests that the Examiner allow Claims 49-73. Should the Examiner have any questions, comments, or suggestions in furtherance of the prosecution of this Application, please contact Applicant's attorney at 214.979.3093. Applicant, through its attorney, stands ready to conduct a telephone interview with the Examiner to review this Application if the Examiner believes that such an interview would assist in the advancement of this Application.

To the extent that any further fees are required during the pendency of this Application, including petition fees, the Commissioner is hereby authorized to charge payment of any additional fees, including, without limitation, any fees under 37 C.F.R. § 1.16 or 37 C.F.R. § 1.17, to Deposit Account No. 23-3189 of Hunton & Williams (Dallas) and reference Attorney Docket No. 82274.472023. In the event that any additional time is needed for this filing, or any additional time in excess of that requested in a petition for an extension of time, please consider this a petition for an extension of time for any needed extension of time pursuant to 37 C.F.R. § 1.136 or any other section or provision of Title 37. Applicant respectfully requests that the Commissioner grant any such petition and authorize the Commissioner to charge the Deposit Account referenced above. Please credit any overpayments to this same Deposit Account.

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This is intended as being in furtherance of the Amendment and Response of January 14, 2004 - both this Amendment and Response and the Amendment and Response of January 14, 2004 collectively being responsive to the Final Office Action mailed November 14, 2003.

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